

FREDERICK COUNTY PLANNING COMMISSION October 10, 2012

TITLE: Supply to Barren Preliminary Subdivision

Plan:

Lots 1-31

FILE NUMBER: S-871, AP 12438

REQUEST: Residential Preliminary Subdivision Plan

Approval

The Applicant is requesting preliminary

subdivision plan approval for 31 lots on a 34.15-

acre site.

PROJECT INFORMATION:

ADDRESS/LOCATION: Located along Yeagertown Road, north of Old National Pike.6

TAX MAP/PARCEL: Map 79, Parcel 9

COMP. PLAN: Low Density Residential

ZONING: R-1 Residential PLANNING REGION: New Market WATER/SEWER: W-4, S-4

APPLICANT/REPRESENTATIVES:

APPLICANT: Frall Developers, LLC
OWNER: Frall Developers, LLC
SURVEYOR/ENGINEER: VanMar Associates, LLC

ARCHITECT: N/A ATTORNEY: N/A

STAFF: Tolson DeSa

RECOMMENDATION: Conditional Approval

ATTACHMENTS:

Exhibit #1- Supply to Barren Rendering

Exhibit #2: Supply to Barren S-871 Letter of Understanding (LOU)

STAFF REPORT

ISSUE

The Applicant is requesting preliminary subdivision plan approval for 31 single-family residential lots on a 34.15-acre site in accordance with Cluster Development provisions under section 1-19-10.100 through 1-19-10.100.5 of the zoning ordinance and applicable subdivision provisions within Chapter 1-16 Subdivision Rules and Regulations of the Frederick County Code.

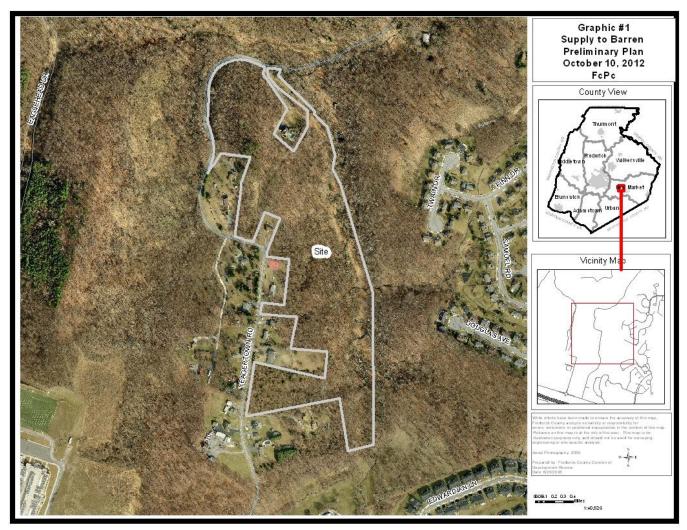
BACKGROUND

The Frederick County Planning Commission (FCPC) has discussed this project on numerous occasions since 1999.

Pursuant to a Settlement Agreement with the BOCC, the Applicant withdrew all prior applications related to this property and agreed to start "from scratch" with the current application.

The Residential Cluster Concept Plan was reviewed and approved by the FCPC during their meeting on September 12, 2012. During that meeting the FCPC did not add any conditions of approval onto the Preliminary Subdivision Plan.

The 34.15 acre site is primarily forested. The site is surrounded by seven residential lots and borders the Greenview PUD to the east. See Graphic #1 below.



ANALYSIS

A. CLUSTER DEVELOPMENT REGULATIONS

1. Purpose §1-19-10.100: The purpose of cluster development is to provide a method of development that permits variation in lot sizes without an increase in the overall density of population; that allows home buyers a choice of lot sizes according to their needs; that preserves green space, tree cover, scenic vistas, natural drainage ways, or preserves features of outstanding national topography; in order to prevent soil erosion and provide green areas for rest and recreation.

The cluster plan illustrated a variation in lot size without increasing the overall density. The lots range in size from 15,000 square feet to 31,709 square feet, with the average lot size being 18,060 square feet. Roughly 19.99 acres of the overall site will be owned and maintained as open space by the homeowners association. The majority of the proposed open space consists of floodplain, steep slopes, heavily forested areas, and waterbody buffers.

2. Districts Where Permitted §1-19-10.100.2: In all R Districts, the Planning Commission in approving subdivision plats, may permit modifications in lot area, lot width, yards (building restriction areas) including zero lot lines, or other requirements. Use regulations are governed by the zoning district in which the development is located. Cluster development is not permitted unless public water and public sewer are provided.

The Applicant sought approval of the permitted modifications in lot area; none of the proposed 31 lots meet the typical 40,000 square foot lot size requirement for the R-1 zoning district. The lots will meet all other R-1 standards. Public water and sewer will service the site.

3. Density Determination and Design Requirements §1-19-10.100.3: The average dwelling unit density will be no greater than the permitted density for the district in which the units are located. For the purposes of this division, DENSITY means the maximum number of dwelling units which could be built on net developable land area in the zoning district. Net developable land is that land remaining after flooding soils areas and rights-of-way for principal highways have been deducted from the gross site area.

After deducting the flooding soils and the right of way dedication for Yeagertown Road, the net developable area is 31.056 acres, which permits a density of 31 lots under the standard R-1 dimensional requirements. The Applicant is proposing 31 lots which will not exceed the density permitted by the R1 zoning district for single family residential lots on this site.

4. Green Area Space Requirements §1-19-10.100.4: Reduction of individual lot areas will be reserved as green area. The county may accept the conveyance of the green areas or it shall be conveyed to a nonprofit homeowners association.

The Applicant is proposing to convey 19.99 acres of open space to the homeowners association. The proposed open space consists of floodplain, steep slopes, heavily forested areas, and waterbody buffers.

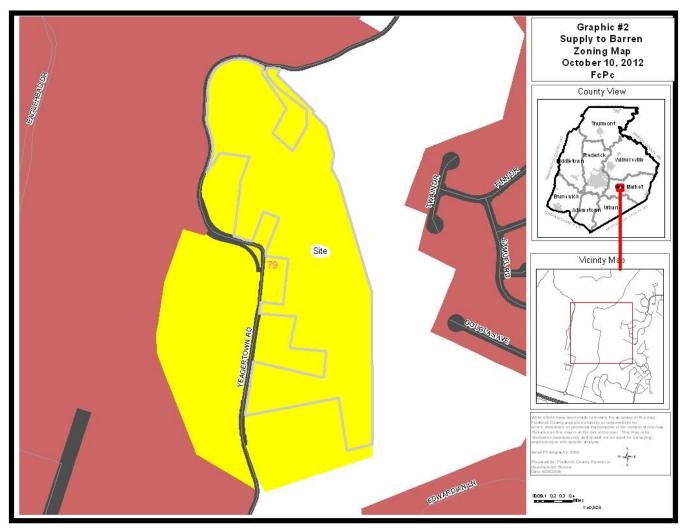
Cluster Development Regulations Findings/Conclusions

The proposed subdivision meets all cluster development regulations as provided in section 1-19-10.100 through 1-19-10.100.5 of the zoning ordinance. To that end, the FCPC approved the cluster concept plan on September 12, 2012.

B. SUBDIVISION REGULATION REQUIREMENTS

1. Land Requirements §1-16-217 (A): The land use pattern of the Comprehensive Plan and the district regulations of the zoning ordinance shall form the basic theme of the design pattern of the proposed subdivision.

The proposed land use and subdivision design meets Zoning Ordinance requirements and Comprehensive Plan designations. See Graphic #2 below.



2. Land Requirements §1-16-217 (B): The subdivision design shall take advantage of the uniqueness of the site reflected by topography, soils, the wooded areas, water bodies and the relationship to adjoining subdivisions and land uses, both proposed and existing.

The site is primarily wooded, and contains steep slopes up to 25% a stream with FEMA floodplain areas is located on the eastern portion of the site. With the exception of the steep slopes, all of these natural features will be preserved as open space. Forest planting along the stream will further enhance the environmentally sensitive area and provide screening from the adjoining residential subdivision. The proposed development is similar to the surrounding properties in regards to design and proposed use.

Subdivision Regulation Requirements Findings/Conclusions

The proposed subdivision will meet the Subdivision Regulations as provided in *Land Requirements* §1-16-217 (A) and (B).

C. ACCESS

1. Public Facilities §1-16-12 (B)(3)(b): For major subdivisions; Lots must access a publicly-maintained road with a continuously paved surface that is at least 20 feet in width.

Lots 1-9 will take access directly off of Yeagertown Road, classified as a Local street. Lots 1-2 and 3-4 will each share a common entrance off of Yeagertown Road. Lots 5-9 are proposed as panhandle lots connecting to Yeagertown Road via a common driveway. Lots 10, 11 and the existing Parcel 142 will share a common driveway which will access Yeagertown Road. Lots 12-31 will access a proposed culde-sac (Yeager Court) that will be constructed with the typical 20-foot wide paved surface and dedicated to the County for public use. Intersection sight distance on Yeagertown Road has been found to be adequate by the applicant's engineer. Off-site, Yeagertown Road is a publically maintained road with a 16 - 20 foot wide paved surface.

The Subdivision Regulations (section 1-16-219.c.3) do not allow more than 4 lots panhandle lots when common driveways are utilized. Lots 5-12 are panhandle lots. The Applicant is proposing that Lot 9 will have a panhandle connection to the common driveway, which serves Lots 10 and 11, as well as existing parcel 142. The actual access for Lot 9 is proposed to be located on the common driveway for Lots 5-9.

Subdivision Ordinance Section 1-16-219.C.2: Panhandle lots may be approved by modification of the Planning Commission in major subdivisions only when it is determined by the Commission that "excellence of design" will be achieved or that such lots are inaccessible to the road due to odd shape and/or topographical constraints. In each case, the Planning Commission will determine "excellence of design" based on the spatial relationship of the panhandle lot to other lots and the public road. Only physical design criteria such as odd shape and road inaccessibility, topography, existing utilities, proposed and existing well and septic constraints (Health Department criteria) and natural or man-made features shall be used by the Planning Commission in granting modifications for panhandle lots in major subdivisions.

Staff has no objection to the proposed cul-de-sac. . The FCPC will have to approve a modification for any proposed panhandle lots at this time. Traditional lots are extremely difficult due to constraints of the topography and the existing houses located along Yeagertown Road. The panhandle lots are all using common driveways which will reduce access points along Yeagertown Road as well as reduce impervious coverage throughout the development. Therefore, Staff supports the panhandle lot design for lots 5-12.

Access Findings/Conclusions

The lots within the proposed subdivision will meet all County access requirements.

D. WATER AND SEWER FACILITIES

1. Public Facilities §1-16-12 (C): The proposed subdivision shall be disapproved unless each building lot has been approved for individual and/or community sewerage and water facilities by the Health Department.

The property has a water and sewer classification of W-4, S-4 and must utilize public facilities. The proposed lots will receive water service from the neighboring Greenview PUD, and sewer service to Ballenger /McKinney Wastewater Treatment Plant.

Supply to Barren: Preliminary Plan, Lots 1-31

E. OTHER APPLICABLE REGULATIONS

Stormwater Management – Chapter §1-15.2: SWM requirements will be addressed by using non-rooftop disconnection bio swales. Drywells & infiltration berm stormwater management is in accordance with the 2009 revisions of the 2000 MD stormwater design manual.

APFO – Chapter §1-20: This subdivision is subject to APFO testing for schools, roads, public water, and public sewer. The following areas are addressed in the Settlement Agreement between the Applicant and the County, and will also be included in an APFO Letter of Understanding (LOU) to be signed by the Applicant and the Planning Commission as a condition of approval of this preliminary plan. See attached Exhibit #2.

- 1. Schools: The Project is projected to generate 11 elementary school students, 5 middle school students and 6 high school students. Based on these numbers and considering enrollment projections from pipeline development, the school adequacy test fails at the elementary and middle school levels. The Developer has chosen the option to mitigate the school inadequacy by paying the School Construction Fees under Section 1-20-62 of the APFO. This Project is eligible to utilize the School Construction Fee option per the criteria set forth in Section 1-20-62 of the APFO. The School Construction Fees shall be paid prior to plat recordation based on the specific fees required by Section 1-20-62(E) at the time of plat recordation, per unit type and the school level(s) to be mitigated.
- 2. **Roads**: The Project will generate 32 am and 37 pm weekday peak hour trips, which does not meet the requisite 50 peak hour trip threshold required for APFO testing. However, the Developer is required to provide fair share contributions to existing escrow accounts per Section 1-20-12(H).
 - As a condition of the APFO approval of the Project, the Developer is required to pay its proportionate contribution to existing escrow account No. 3322: Boyers Mill Road/Old National Pike Signal; the estimated inflated cost of this Road Improvement is \$90,000. As determined by DPDR-Traffic Engineering Staff, the Developer's proportionate share of this Road Improvement is 3.21%. **Therefore, prior to plat recordation, the Developer hereby agrees to pay \$2,889** to the escrow account for this road Improvement. Should this payment not be made within one year of the execution of the LOU, the County reserves the right to adjust this amount, based on an engineering cost index.
- 3. Public Water & Sewer: While the public sewer and water facilities are currently adequate to serve the Project, the Applicant is aware that capacity is not guaranteed until purchased. APFO approval for sewer and water does not guarantee that plats will be recorded, building permits issued, or that water/sewer taps will be issued. Plat recordation and building permit issuance is subject to compliance with the Annotated Code of Maryland, Environment Article Section 9-512, et seq. and all applicable County regulations, including but not limited to Sec. 1-16-106 of the Frederick County Subdivision Regulations.

Forest Resource Ordinance – Chapter §1-21: The Applicant has submitted and received approval for a FRO plan that meets FRO requirements by preserving 11.41 acres of existing forest.

Summary of Agency Comments

Other Agency or Ordinance Requirements	Comment
Development Review	Conditionally Approved.
Engineering (DRE):	Consideration of the constant
Development Review Planning:	Hold. Must meet all agency and FcPc comments and conditions.
State Highway Administration (SHA):	N/A
Div. of Utilities and Solid Waste Mngt. (DUSWM):	Conditionally Approved.
Health Dept.	Approved.
Office of Life Safety	Conditionally Approved.
DPDR Traffic Engineering	Approved.
Historic Preservation	Approved

RECOMMENDATION

Staff has no objection to conditional approval of the Preliminary Subdivision plan.

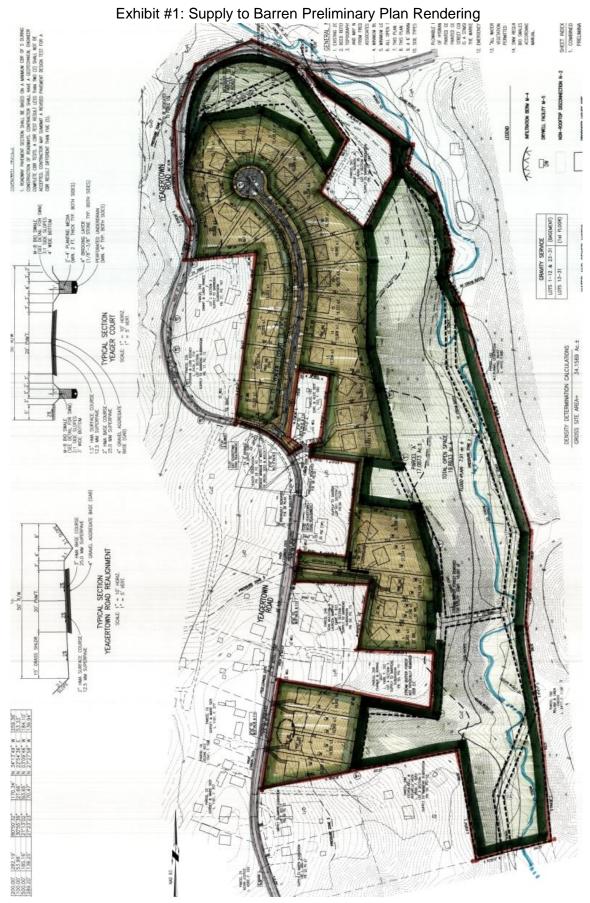
Based upon the findings and conclusions as presented in the staff report the application meets or will meet all applicable Subdivision, Zoning, APFO, and FRO requirements. Should the FcPc grant approval of this application (S-871, AP 12438), Staff recommends that the following items be added as conditions to the approval:

- 1. The Applicant shall comply with all Staff and agency comments through the completion of the plan.
- 2. Approval of a modification in accordance with Subdivision Ordinance Section 1-16-219.C.2 for the proposed panhandle lots 5-12.
- 3. The Applicant shall execute an APFO LOU consistent with this staff report. The APFO approval is valid for three (3) years from the date of Commission approval; therefore, the APFO approval expires on October 10, 2015.

PLANNING COMMISSION ACTION

MOTION TO APPROVE

I move that the Planning Commission APPROVE S-871 (AP 12438) with conditions as listed in the staff report for the proposed residential preliminary subdivision plan, based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting.



Supply to Barren: Preliminary Plan, Lots 1-31 October 10, 2012 Page 8 of 10



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Department of Planning and Development Review
30 North Market Street • Frederick, Maryland 21701
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ADEQUATE PUBLIC FACILITIES LETTER OF UNDERSTANDING

Supply to Barren

Preliminary Plat #S-871 AP #12439

In General: The following Letter of Understanding ("Letter") between the Frederick County Planning Commission ("Commission") and Frall Developers, Inc. ("Developer"), together with its/their successors or assigns, sets forth the conditions and terms which the Commission deems to be the minimum necessary improvements dealing with school, water, sewer, and road improvements that must be in place for the property identified below to be developed, as proposed under the approved Supply to Barren Preliminary Plan of Subdivision (the "Project"), in compliance with the Frederick County Adequate Public Facilities Ordinance ("APFO").

The Developer, its successors or assigns, hereby agrees and understands that unless the required improvements (or contributions to road escrow accounts, as specified below) are provided in accordance with this Letter, APFO requirements will not be satisfied and development will not be permitted to proceed.

This Letter concerns itself with the Developer's 40.30 +/- acre parcel of land, which is zoned Low Density Residential (R-1), and located on the east side of Yeagertown Road. This APFO approval will be effective for development of 31 new single family detached homes, which is shown on the subdivision plat for the above-referenced Project, which was conditionally approved by the Commission on October 10, 2012.

<u>Schools</u>: The Project is projected to generate 11 elementary school students, 5 middle school students and 6 high school students. Based on these numbers and considering enrollment projections from pipeline development, the school adequacy test fails at the elementary and middle school levels. The Developer has chosen the option to mitigate the school inadequacy by paying the School Construction Fees under Section1-20-62 of the APFO. This Project is eligible to utilize the School Construction Fee option per the criteria set forth in Section 1-20-62 of the APFO. The School Construction Fees shall be paid prior to plat recordation based on the specific fees required by Section 1-20-62(E) at the time of plat recordation, per unit type and the school level(s) to be mitigated.

<u>Water and Sewer:</u> While the public sewer and water facilities are currently adequate to serve the Project, the Applicant is aware that capacity is not guaranteed until purchased. APFO approval for sewer and water does not guarantee that plats will be recorded and building permits will be issued. Plat recordation and building permit issuance is subject to compliance with the Annotated Code of Maryland, Environment Article Section 9-512, et seq. and all applicable County regulations, including but not limited to Sec. 1-16-106 of the Frederick County Subdivision Regulations.

Road Improvements: The Project will generate 32 am and 37 pm weekday peak hour trips, which does not meet the requisite 50 peak hour trip threshold required for APFO testing. However, the Developer is required to provide fair share contributions to existing escrow accounts per Section 1-20-12(H).

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<u>Period of Validity</u>: The APFO approval is valid for three (3) years from the date of Commission approval; therefore, the APFO approval expires on October 10, 2015.

<u>Disclaimer</u>: This Letter pertains to APFO approval only, and shall not be construed to provide any express or implied rights to continue the development process. The Project remains subject to all applicable rules and regulations, including but not limited to those related to zoning, water and sewer, and subdivision. The Planning Commission's jurisdiction and authority is limited by State and County law, and approvals may be required from other local or state governmental agencies before the proposed development can proceed.

DEVELOPER: Frail Developers, Inc.	
Name of olley. Harrow Tool Title: Via Prosidat	Date: 9/27/12
FREDERICK COUNTY PLANNING COMMISSION:	
By: Dwaine E. Robbins, Chair or William G. Hall, Secretary	Date:
ATTEST:	
By: Gary Hessong, Director, Permits & Inspections	Date:
Planner's Initials / Date County Attorney's Office Initials / Date (Amyrored in to hard form)	

Supply to Barren LOU September 12, 2012 Page 2 of 2